

# EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

**IN RE DIGITEK®  
PRODUCTS LIABILITY LITIGATION**

**MDL NO. 1968**

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**DECLARATION OF LESTER L. LEVY IN RESPONSE TO DEFENDANTS'  
OPPOSITION TO THE APPLICATION BY WOLF POPPER LLP FOR AWARD OF  
ATTORNEYS' FEES AND REIMBURSEMENT OF EXPENSES**

I, LESTER L. LEVY, declare as follows:

1. I am a member of Wolf Popper LLP ("Wolf Popper" or the "Firm") and a member of Plaintiffs' Steering Committee ("PSC"). I was appointed to the PSC by this Court pursuant to Pretrial Order # 4, filed on November 5, 2008. My Firm is also counsel to Plaintiff Campbell in *Campbell v. Actavis*, 2:08-cv-01075. I have personal knowledge of the facts set forth in this Declaration. If called upon and sworn as a witness, I could and would competently testify thereto.

2. In their opposition to the fee application of my firm, Defendants wrongly state as to Wolf Popper LLP, that "[a]ll of their work pertained to class certification issues, except a small amount of time addressing the subject of testing Digitek samples." A reading of the declaration I submitted in support of the initial application for fees and expenses, demonstrates specific work done, by person, by project, that pertained to the master case and *not* to the class certification issues, including, *inter alia*, work on the PSC, attending meetings (in person and by telephone) and court conferences; at the request of the PSC, reviewing various FDA and other governmental filings by the Defendants for corporate information and searching for and locating former employees of various Defendants and potential witnesses; reviewing and providing

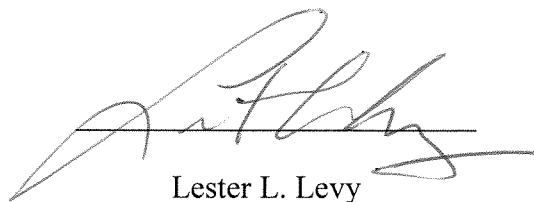
comments to Co-Lead Counsel on pleadings, including the Master Complaint, the motion to dismiss briefing, the tolling agreement, draft discovery requests, and the protective order; conducting legal research on certain discovery issues, including defendants' privilege and other objections to discovery. *See* the Declaration of Lester L. Levy in Support of Application by Wolf Popper LLP for Award of Attorneys' Fees and Reimbursement of Expenses ¶¶15-32, and Exhs. B and D thereto (Docket No. 448-4).

3. Wolf Popper, at the specific request of the PSC, also participated in and coordinated the class certification briefing and class issues. The class certification time and expenses were explicitly separated out between non-class and class work, as set forth in Exhibits B and D of my initial declaration. As set forth in the PSC's Reply Brief in Further Support of its Application for Fees and Expenses, the time expended on the class motion is compensable pursuant to United States Supreme Court precedent, as well as decisions of United States Courts of Appeals.

4. If the Court desires to go beyond the detail submitted in my declarations, we would be pleased to provide the Court with my firm's daily time entries.

I declare, under penalty of perjury, that the foregoing facts are true and correct to the best of my knowledge, information, and belief.

Executed on March 23 2011.



Lester L. Levy